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Ad-Hoc Query on 2022.65 Period of detention of applicants for international protection

Requested by EMN Poland on 22 December 2022

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (24 in Total)

Disclaimer:

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## 1. BACKGROUND INFORMATION

Poland is considering to amend its Act on granting protection to foreigners within the territory of the Republic of Poland regarding the time that an applicant for international protection can be placed in detention and under which circumstances this placement in detention can be extended and under which conditions.

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Poland is interested to see the practices of other Member States regarding this issue. Seeing that the Synthesis report of the EMN Study “Detention and alternatives to detention in international protection and return procedures” was published in May 2022 but with information collected in April 2021, Poland will kindly request that Member States answer the following questions:

1. What is the normal period of detention of an applicant for international protection (asylum-seeker) set up in your national law when transposing Article 8 paragraph 2 and 3 of the Directive 2013/33/EU set in your national law?
2. Does your national law allow the extension of the period of detention indicated in Q.1? YES/NO. If you answer yes, can you please indicate if there are some conditions that have to be fulfilled in order to grant the extension?
3. If you answer YES to Q1, what is the maximum duration of the extension (please count the possibility that the extension can be renewed)?

We would very much appreciate your responses by February 2, 2023.

**We would like to ask the following questions:**

- 1. What is the normal period of detention of an applicant for international protection (asylum seeker) set up in your national law when transposing Article 8 paragraph 2 and 3 of the Directive 2013/33/EU set in your national law?**
- 2. Does your national law allow the extension of the period of detention indicated in Q.1? YES/NO. If you answer YES, can you please indicate if there are some conditions that have to be fulfilled in order to grant the extension?**
- 3. If you answer YES to Q1, what is the maximum duration of the extension (please count the possibility that the extension can be renewed)?**


We would very much appreciate your responses by **2 February 2023**.

## **2. RESPONSES**

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		Wider Dissemination	
	EMN NCP Austria	Yes	<p>1. In Austria, the Aliens Police Act and the Federal Office for Immigration and Asylum Procedures Act regulate under which conditions third-country nationals may be arrested and set out maximum arrest periods of 24, 48 or 72 hours (see AHQ 2022.59). Beyond this time period, detention is generally only possible in case of detention pending removal in accordance with Article 76 Aliens Police Act. The purpose of detention pending removal is always to secure an imminent removal from the country (Article 76 Aliens Police Act; <a href="https://www.bmi.gv.at/news.aspx?id=433270384D5132487961513D">https://www.bmi.gv.at/news.aspx?id=433270384D5132487961513D</a>)</p> <p>The duration of detention pending removal is regulated in Article 80 Aliens Police Act. Generally, detention pending removal shall not exceed 6 months (Article 80 para. 2 subpara 2 and para 3 Aliens Police Act). If the person is a minor (over the age of 14 years) the period of detention pending removal shall not exceed 3 months (Article 80 para 2 subpara 1 Aliens Police Act). If ordered against asylum seekers and applicants for international protection, detention pending removal may not exceed a period of 10 months until the time when the measure terminating the residence becomes enforceable (Article 80 para. 5 Aliens Police Act).</p> <p>2. Yes. Article 80 para 4 Aliens Police Act regulates under which conditions the maximum period of detention pending removal described in Q1 may be extended. According to this provision, the extension requires that the removal of the foreigner is not possible because:</p> <ul style="list-style-type: none"> <li>• it is not possible to verify his or her identity and nationality, in particular for the purpose of obtaining a substitute travel document (subpara. 1);</li> <li>• another state has not granted the necessary permit for entry or transit (subpara. 2);</li> <li>• he or she prevents the removal by resisting coercive force (subpara. 3); or</li> </ul>

<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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			<ul style="list-style-type: none"> <li>the removal appears jeopardised because the foreigner has already avoided the procedure once or is otherwise responsible for an obstacle to the removal (subpara. 4).</li> </ul> <p>3. According to Article 80 para 4 Alien Police Act, the detention pending removal may be upheld for a maximum period of 18 months.</p> <p>If the detention pending removal against asylum seekers or applicants for international protection is maintained beyond the period set out in Article 80 para 5 (see Q1) or if it is ordered again after this period, the duration of the detention pending removal executed until then shall be counted towards the duration pursuant to Article 80 para. 2 or 4 Aliens Police Act.</p>
	EMN NCP Belgium	Yes	<p>1. The Belgian Immigration Act differentiates between the procedure at the border, the procedure on the territory, and the Dublin procedure.</p> <p>The detention of applicants of international protection on the territory is only lawful when: Detention appears necessary on the basis of an individual assessment and no other less coercive measures can be effectively applied.</p> <p>An applicant for international protection can be detained on the territory (Article 74/6 Immigration Act):</p> <ul style="list-style-type: none"> <li>- in order to establish or verify the identity or nationality of the person concerned;</li> <li>- in order to obtain the information underlying the international protection application which could not be obtained if the applicant of international protection seeker was not detained, in particular in case of risk of absconding of the person concerned;</li> <li>- where the person is detained in preparation for the return and/or implementation of the removal process, and it can be demonstrated on the basis of objective criteria, such as the fact that the person has already had the possibility of accessing the international protection procedure, that there are reasonable grounds to believe that the person has lodged the international protection application for the sole purpose of postponing or impeding the implementation of the return decision;</li> <li>- where the protection of national security or public order so requires.</li> </ul> <p>The Immigration Act expressly provides that no third-country national may be detained for the sole reason that he/she has submitted an international protection application.</p>


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			<p>The duration of detention is a maximum of two months (plus the duration of the possible appeal period). Detention at the border, pending authorisation for entry into or expulsion from Belgium, is possible in the following cases (Article 74/5 Immigration Act):</p> <ul style="list-style-type: none"> <li>- the third-country national who can be expelled by the authorities in charge of border control with the application of the Immigration Act;</li> <li>- the third-country national who attempts to enter Belgium without fulfilling the entry conditions (Article 2 and 3 Immigration Act) and makes a request for international protection at the border;</li> </ul> <p>Under no circumstances may a third-country national be detained for the sole reason that he/she has made an application for international protection.</p> <p>Detention at the border must not exceed two months.</p> <p>The applicant for international protection is admitted to the territory,</p> <p>When the authority deciding on the international protection application (CGRS) takes a decision to further examine the application for international protection, or</p> <p>When the CGRS has not taken a decision within four weeks of receiving the application.</p> <p>Detention in the context of a Dublin-procedure</p> <p>Third-country nationals who have lodged an application for international protection at the border or on the territory may be detained, where the Member State</p> <ul style="list-style-type: none"> <li>• Is examining which Member State is responsible for the examination of his/her application, or</li> <li>• has identified another Member State responsible and detains the third-country national in the context of the execution of a Dublin transfer.</li> </ul> <p>Detention can only be implemented after an <u>individual assessment</u> of the case, when there is a <u>significant risk of absconding</u> and insofar as the <u>detention is proportionate</u> and <u>no other less coercive measures can be effectively applied</u> (Article 51/5, §1 Immigration Act).</p> <p>The duration of the detention, in both cases, cannot, in principle, exceed six weeks (Article 51/5, par. 1 Immigration Act, in case of the examination, Article 51/5 par. 3 Immigration Act and Article 51/6 Immigration Act for the execution of a Dublin-transfer).</p> <p>2. Yes.</p>
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			<p>Regarding the procedure on the territory (Article 74/6 Immigration Act):</p> <p>The Immigration Office may extend this period by two months for reasons of national security or public order. Afterwards, two one-month extensions are possible, if the State Secretary requests them.</p> <p>In the context of a procedure at the border (Article 74/5 Immigration Act), the State Secretary or the Immigration Office representative may extend the detention for a period of two months if:</p> <ul style="list-style-type: none"> <li>- the third-country national is the subject of an enforceable measure of expulsion;</li> <li>- the necessary steps to remove the alien were taken within seven working days from the expulsion order when they are continued with due diligence and the effective removal of the latter within a reasonable period of time</li> </ul> <p>After these extensions, only the minister can proceed with the extension.</p> <p>Detention should in principle never exceed five months. But in cases where it is necessary for the protection of public order or national security, the detention may be extended for a further one month each time.</p> <p>No, in the case of the Dublin hypothesis.</p> <p>Nonetheless, both 6-week periods are cumulative. I.e. a third-country national can be detained for 6 weeks to (i) examine which MS is responsible and (ii) an additional 6 weeks to execute the transfer to the responsible MS.</p> <p>Furthermore, an appeal against a transfer decision may be interrupted, which means, in practice, that once the Court has denied an appeal against a Dublin transfer decision, a new period of detention (6 weeks) may start.</p> <p>3. Regarding the procedure on the territory (Article 74/6 Immigration Act), the maximum period is, in principle, six months.</p> <p>In the context of a procedure at the border (Article 74/5 Immigration Act), the total duration of detention may not exceed eight months.</p>
	EMN NCP Bulgaria	Yes	<p>1. The national legislation allows the detention of applicants for international protection in cases specified in the law as the normal period is determined on a case by case basis.</p> <p>2. Yes, the national legislation allows the extension of the detention period up to the maximum period - until the end of the proceedings and there are no specific conditions to do it.</p>



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			3. The maximum term is 6 months from the initiation of the proceedings, and in exceptional cases it can be extended.
	EMN NCP Croatia	Yes	<p>1. In Croatia, Article 54 of the “Act on International and Temporary Protection” (Freedom of movement of applicants) regulates restrictions of movement (detention being one of them) of applicants for international protection. Paragraph 9. states that the measure of restriction of freedom of movement shall be imposed for as long as there are reasons for this, but for no longer than 3 months. The Ministry, the police administration or the police station render a decision on restriction of freedom of movement, establishing the type of measure and its duration, which is proportionate to the aim of the restriction of movement. In practice, a duration period is based on all the facts and circumstances of the specific case.</p> <p>2. Yes.</p> <p>3. As stated in paragraph 9. of the Act on International and Temporary protection, for justified reasons, the application of the measure of restriction of freedom of movement may be extended for no longer than three more months, so maximum duration of detention is 6 months.</p>
	EMN NCP Cyprus	Yes	<p>1. According to the national law, the detention of an applicant for international protection has the shortest possible duration and lasts only as long as the reason for the detention provided for in Article 8 paragraph 3 of the Directive 2013/33/EU is still valid.</p> <p>2. Yes, the period of detention can be extended as long as the reason for the detention provided for in Article 8 paragraph 3 of the Directive 2013/33/EU is still valid.</p> <p>3. According to the law, there is no maximum period. However, it is a national practice that the detention of an applicant for international protection cannot exceed 18 months, but for very exceptional reasons (e.g. national security).</p>

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	EMN NCP Czech Republic	Yes	<p>1. In the Czech national law, there is no “normal” period of detention indicated. Every decision to detain an applicant for international protection is issued after an individual assessment, therefore the period of detention is tailor-made to the particular case. However, the maximum period of detention is 120 days. The grounds for detention are laid down in the national law.</p> <p>2. Yes, the duration of detention can be extended or a new decision to detain the applicant for international protection can be issued when new grounds for detention occur. Nevertheless, the period of 120 days cannot be exceeded.</p> <p>3. The maximum period of detention is 120 days for applicants for international protection. This is regulated in the Czech Asylum Act. However, if an application for international protection is made by a foreigner who is already detained for the purpose of administrative expulsion under the Act on the Residence of Foreigners (where the maximum period of detention is 180 days), it is theoretically possible that a person is firstly detained for 180 days under the Act on the Residence of Foreigners and subsequently for 120 days under the Asylum Act because these different detention periods are not mutually inclusive.</p>
	EMN NCP Estonia	Yes	<p>1. Grounds for detention of an applicant for international protection is regulated in the Act on Granting International Protection to Aliens (hereinafter AGIPA), § 361 p 1 and 2. An applicant for international protection may be detained if it is unavoidably necessary on the following bases: 1) identification of the person or verification of the identity; 2) verification or identification of the citizenship of the person; 3) verification of the legal bases of the entry into and the stay in the state of a person; 4) identification of the circumstances relevant to the proceedings of the application for international protection, primarily in the case when there is a risk of abscond; 5) there is a reason to believe that the person has submitted an application for international protection to postpone the obligation to leave or prevent expulsion; 6) protection of the security of state or public order; 7) transfer of a person in the procedure provided for in Regulation (EU) No 604/2013 of the European Parliament and of the Council, if there is a risk of abscond of a person. Link to legislative act: <a href="https://www.riigiteataja.ee/en/eli/530082022008/consolide">https://www.riigiteataja.ee/en/eli/530082022008/consolide</a>.</p>




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			<p>A person can be detained for up to 48 hours without the permission of an administrative court in accordance with the AGIPA. In case it is necessary to detain the person for longer than 48 hours, a permission has to be obtained from the administrative court to detain the person and place him or her into detention centre for up to two months.</p> <p>2. Yes, the administrative court may, pursuant to the Code of Administrative Court Procedure, extend the term for detention by up to four months at a time, if the ground (abovementioned) for detention remains.</p> <p>3. National legislation does not stipulate maximum duration of the extension for detention, however, the administrative court has indicated that it should not exceed 18 months.</p>
+	EMN NCP Finland	Yes	<p>1.</p> <ul style="list-style-type: none"> <li>• Detention of an alien is regulated in the Aliens Act of Finland (301/2004)</li> <li>• Each decision to detain an alien is considered separately and will take account of the alien's personal and other circumstances. The official responsible for a decision on holding an alien in detention or on placing him or her exceptionally in police detention facilities referred to in section 123(3) shall, without delay and no later than the day after the alien was placed in detention, notify the District Court of the municipality where the alien is held in detention or, in an urgent case, another District Court of the matter, as further provided by Ministry of Justice decree.</li> <li>• The District Court shall hear a matter concerning the detention of an alien or the exceptional placement referred to in section 123(3)(1) without delay and no later than four days from the date when the alien was placed in detention. In the case referred to in section 123(3)(2), the matter shall be heard without delay and no later than 24 hours from the notification.</li> <li>• The authorities handling the matter shall order a detained alien to be released immediately once the requirements for detention cease to exist. The detained alien must be released after six months after the decision to detain the alien has been made.</li> </ul>


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			<p>2.</p> <ul style="list-style-type: none"> <li>• Yes. The detention period can be prolonged to twelve months, if the detained alien is not cooperating with the authorities on their repatriation, or the required travel documents cannot be obtained from the responsible third country and the enforcement of the return order is delayed.</li> </ul> <p>3.</p> <ul style="list-style-type: none"> <li>• Twelve months.</li> </ul>
	EMN NCP France	Yes	<p>2. See the EMN Study “Detention and alternatives to detention in international protection and return procedures” for more information, no change in the French regulation since this study</p> <p>To summarize:</p> <ul style="list-style-type: none"> <li>• An applicant for international protection using the standard procedure cannot be detained.</li> <li>• A person seeking asylum at the border cannot be detained on this ground alone. They can be held in the waiting zone for a maximum of 20 days while it is checked whether the asylum application falls within the jurisdiction of another state, whether the application is inadmissible, or whether it is manifestly unfounded.</li> <li>• An irregular migrant arrested within the country cannot be detained on this ground alone. However, if they are issued with a removal order following their arrest, and if they have not provided effective assurances, and if there is a significant risk that they will abscond, then they may be placed in detention.</li> <li>• A third-country national who has been issued with a return order may be detained if there is a risk of absconding.</li> <li>• An irregular migrant detected at the border cannot be detained. However, they may be placed in a waiting zone while waiting to find out whether they may enter France.</li> </ul> <p>Detention is no longer justified by the need for “surveillance with a view to removal”, but by the lack of “the provision of effective assurances”, which implies a risk of evading the removal order. Evaluation of these effective assurances, as mentioned in Article L551-1 of the CESEDA (French code on the entry and stay of</p>


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			<p>foreign nationals and the right to asylum), includes three possibilities: “the possibility of identifying the person concerned, the possibility of locating the person concerned, the degree of confidence that the person concerned will comply with the obligations incumbent on them as a result of their administrative situation”.</p> <p>3.</p> <p>Article 29 of the law of 10 September 2018 extends the maximum duration of detention from 45 days to 90 days and modifies Article L.552-7 of the CESEDA. The aim of this extension is to improve how the removal chain operates, in particular by ensuring sufficient time for obtaining consular laissez-passers.</p> <p>This increase marks an in-depth reform of the methods for extending detention (Articles L552-1 to L552-13 of the CESEDA). An initial extension of 28 days is possible if it is granted by the Judge on liberties and detention (JLD) upon request of the prefect. At the end of this period, the prefecture may refer the matter to the judicial judge for a second maximum period of 30 days.</p> <p>The new provisions introduced by the law of 10 September 2018 allow for the period of detention beyond 60 days to be exceptionally extended for two further periods of 15 days: the JLD may authorise an extension, renewable once. The judge will have to invoke four exceptional reasons for this extension (Article L.552-7 of the CESEDA):</p> <ul style="list-style-type: none"> <li>• If the foreign national has obstructed the ex officio execution of the removal order.</li> <li>• If the foreign national has applied for protection against removal on the basis of their state of health, and this is done solely for the purpose of preventing the removal order.</li> <li>• If the foreign national has applied for asylum with the sole purpose of evading the removal order.</li> </ul> <p>If the removal order could not be enforced due to the consulate failing to issue travel documents to the detained foreign national.</p>
	EMN NCP Germany	Yes	<p>1. In German law, the normal period of detention is set at a maximum of six months, as established by the German Residence Act.</p> <p>2. Yes. The period of detention indicated in Q.1 may be extended in certain circumstances, such as if the</p>



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			<p>individual poses a flight risk or if there are indications that the individual may destroy evidence relevant to their asylum application.</p> <p>3. The maximum period of detention may be extended up to 12 months under certain conditions like if an individual is considered as a threat to public safety or if the foreigner hinders his or her deportation, or where the transmission of the necessary documents required for the removal are delayed by the third country which is obliged to admit the foreigner. Detention may not last longer than 18 months.</p>
	EMN NCP Greece	Yes	<p>1. According to par.1 of art.50 of law 4939/2022 , “a third country national or a stateless person who applies for international protection is not detained for the sole reason that he has lodged an application for international protection, as well as for the reason that he entered irregularly or/and he remains in the country without a legal residence title”.</p> <p>In addition, according to par.2 of art. 50 of the same law, “a third country national or a stateless person who applies for international protection, may be detained exceptionally, if deemed necessary, upon individual assessment and under the condition that alternative measures cannot be applied, as those mentioned in art. 22 par. 3 of law nr 3907/2011 (A' 7)”, while according to par. 3, “a third country national or a stateless person who applies for international protection while in detention as per the relevant provisions of laws nr 3386/2005 and 3907/2011, remains in detention exceptionally, if deemed necessary upon individual assessment and under the condition that alternative measures cannot be applied, as those mentioned in art. 22 par. 3 of law nr. 3907/2011”.</p> <p>Moreover, according to par.5 of art. 50 of the same law, “detention of applicants of international protection is enforced/imposed for the absolutely necessary period of time”, while at the same time, “is enforced/imposed for a period of up to 50 days and may be extended further for 50 days, by a specially reasoned decision of the authorities mentioned in par. 4, if remain the reasons that imposed it. The total extension of that detention can not under any circumstances exceed the maximum detention limits, as foreseen in art. 30 of law 3907/2011. Periods of detention that have been imposed according to laws 3386/2005 and 3907/2011, cannot be considered as detention period within the meaning of this article and are not taken into account for the calculation of the maximum detention limits”.</p>


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			<p>Finally, it is noted that, according to art. 30 of law 3907/2011, the maximum detention limit of third country nationals who are subject to return procedures and are set under detention for the preparation of the return and the conclusion/completion of the removal procedure, cannot exceed totally the 18 months.</p> <p>2. Please see answer in question 1.</p> <p>3. Please see answer in question 1.</p>
	EMN NCP Hungary	Yes	<p>1. ordered for a maximum of seventy-two hours.</p> <p>2. The court may extend the period of detention for a maximum of sixty days,</p> <p>3. The duration of the detention may not exceed eight months.</p>
	EMN NCP Ireland	Yes	<p>1. Detention of international protection applicants is covered under national law in section 20 of the International Protection Act 2015. Conditions for detention are set out under section 20(1) of the Act. When an applicant is detained, they must be brought before a District Court judge assigned to the district in which the person is being detained as soon as is practicable. The District Court judge may commit the person to a place of detention for a period not exceeding 21 days, or release the applicant and make such release subject to conditions. Minors are not detained.</p> <p>2. Yes. Periods of detention can be extended by a District Court judge.</p> <p>3. Periods not exceeding 21 days. These periods of detention can be renewed for a period not exceeding 21 days by a District Court judge. There is no limit on the number of times a period of detention can be extended. If, during the period of detention, an immigration officer or a member of An Garda Síochána (national police) is of the opinion that the grounds for detention under section 20(1) no longer apply, the applicant shall be brought</p>


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			before a District Court judge as soon as is practicable and if the judge is satisfied that the grounds for detention no longer apply, the applicant is released.
	EMN NCP Italy	Yes	<p>1. Article 6 paragraph 6 of Legislative Decree 142/2015, which adopts the Directive 2013/33/EU, as amended by Article 2 of Decree-Law 130/2020, states the following: "<u>Detention or extension of detention shall not be extended beyond the time strictly necessary for the examination of the application</u> pursuant to Article 28-bis, paragraphs 1 and 2, of Legislative Decree No. 25 of 28 January 2008 and the following amendments , as introduced by this Decree, unless there are further reasons for detention pursuant to Article 14 of Legislative Decree No. 286 of 25 July 1998. Any delays in the administrative procedures aimed at examining the application, which are not attributable to the applicant, do not justify the extension of detention".</p> <p>2. Yes, it does. Art. 6 of Legislative Decree 142/2015, paragraphs 7 and 8, reads:  <u>The applicant detained</u>  , pursuant to paragraphs 2, 3 and 3-bis, second sentence,  <u>who lodges a judicial appeal against the rejection decision of the Territorial Commission</u>  pursuant to Article 35-bis of Legislative Decree No. 25 of 28 January 2008, and following amendments,  <u>shall remain at the facility</u>    <u>until the adoption of the procedure</u>  referred to in paragraph 4 of the same Article 35-bis [suspension petition],  <u>and for as long as he/she is authorised to remain in the national territory as a result of the judicial appeal lodged.</u>  For the purposes of paragraph 7,  <u>the Chief of Police, the Questore, shall request the extension of the current detention for further periods not exceeding sixty days.</u>    <u>which may be extended from time to time by the Court in monocratic composition (sitting as a sole judge).</u></p>

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			<p>as long as the conditions referred to in paragraph 7 continue to be met.</p> <p><u>In any case, the maximum duration of detention pursuant to paragraphs 5 and 7 may not exceed a total of twelve months.</u></p> <p>Moreover, Art. 35 bis of Legislative Decree 25/2008 provides that, in order to be valid, the appeal shall be lodged within thirty days from the notification of the measure, or <u>within sixty day</u></p> <p>s if the claimant resides abroad, and may also be filed by postal service or through an Italian diplomatic or consular representation. In this case the authentication of the signature and the forwarding to the Italian judicial authority are carried out by the officials of the representation and the communications relating to the proceedings are made at the same representation. The special power of attorney to the defender shall also be granted before the consular authority. In cases referred to in Article 28-bis, paragraphs 1 and 2, and in cases where a detention order has been adopted against the applicant pursuant to Article 6 of Legislative Decree No. 142 of 18 August 2015, the time limits provided for in this paragraph shall be reduced by half.</p> <p>3. Paragraph 8 Art. 6 Legislative Decree 142/2015 indicates that the maximum duration of detention may not exceed 12 months.</p>
	EMN NCP Latvia	Yes	<p>1. As necessary and in conformity with the principle of proportionality, an asylum seeker may be applied the following restrictive measures in the asylum procedure: regular registration at the unit of the State Border Guard or detention. The necessity for application of a restrictive measure shall be assessed, considering the individual situation and circumstances of the asylum seeker.</p> <p>As to detention, it is defined as the last measure in specifically stipulated situations:</p> <ol style="list-style-type: none"> <li>1. it is necessary to ascertain or verify the identity or nationality of the asylum seeker;</li> <li>2. it is necessary to ascertain the facts, on which the application is based and which may be ascertained only by detention, particularly if escaping is possible (the person crossed the State border without an obvious reason evading border controls, previously evaded removal, hid his or her identity, provided false or conflicting information, there are other facts pointing to the likelihood of escape);</li> <li>3. it is necessary to decide on the rights of the asylum seeker to enter the Republic of Latvia;</li> </ol>

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		<p>4. there are grounds for assuming that within the scope of the removal procedure the detained person submitted an application to hinder execution of a voluntary return decision or a removal order or to make it impossible, and it is detected that the relevant person did not have any obstacles for submitting such application earlier;</p> <p>5. the competent State authorities (including the State Border Guard) have a reason to believe that the asylum seeker presents a threat to national security or public order and safety;</p> <p>6. the necessity for transfer procedure in accordance with the provisions of Article 28 of Regulation No 604/2013 has been detected.</p> <p>If any of the conditions for detention mentioned above exists, an official of the State Border Guard may detain an asylum seeker for up to six days, immediately drawing up detention minutes at the place of detaining the asylum seeker or after delivery of the asylum seeker to the detention premises.</p> <p>The time period of detention shall be counted from the moment when the asylum seeker was actually detained. The asylum seeker has the right to contest detention to the district (city) court within 48 hours after he or she has been made acquainted with the detention minutes. The contesting shall not suspend detention.</p> <p>2. Yes.</p> <p>An asylum seeker may be detained for more than six days only on the basis of a decision of the district (city) court.</p> <p>If any of the conditions for detention exists, the State Border Guard shall, as necessary and in conformity with the principle of proportionality, and, if necessary, requesting additional information from the Office of Citizenship and Migration Affairs, not later than 48 hours before expiry of the time period for detention, submit a justified proposal to the district (city) court (according to the actual location of the detained asylum seeker) to detain the asylum seeker for more than six days.</p> <p>The official of the State Border Guard shall deliver the asylum seeker to the district (city) court and, if necessary, invite an interpreter.</p> <p>If the court has taken a decision to refuse to detain the asylum seeker, the State Border Guard shall, without delay after receipt of a true copy thereof and making of the asylum seeker acquainted therewith, release the asylum seeker. Repeated detention of the asylum seeker shall be permitted only in such case, if information has</p>
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			<p>been obtained or new circumstances have been established, which justify detention.</p> <p>The State Border Guard may submit a proposal to the district (city) court to detain an asylum seeker for an unlimited number of times. A repeat proposal shall be examined in accordance with the procedures.</p> <p>3. The time of detention may not exceed two months and may not exceed the time of the asylum procedure. An asylum seeker or his or her representative may, at any time, submit a claim to the district (city) court (according to the actual location of the detained asylum seeker) regarding assessment of the necessity to continue application of detention.</p>
	EMN NCP Lithuania	Yes	<p>1. Under regular circumstances, a foreigner may be detained for up to 48 hours based on a written decision of a law enforcement officer. If there are grounds for a longer period of detention, the foreigner must be transferred to the State Border Guard Service's officers within 5 hours from the moment of detention. The State Border Guard Service can detain a foreigner for longer than 48 hours only by court decision. According to Article 114.5 of the Law on the Legal Status of Foreigners, if the court allows it, the State Border Guard Service may detain a foreigner for up to 6 months.</p> <p>2. Yes. The maximum 6-month period of detention may be extended by up to 12 months if the detained foreigner refuses to cooperate in the process of expulsion (e.g. refuses to provide personal information, provides false or misleading information, etc.) or if the documents required for expulsion have not been obtained. It should be noted that, according to Article 114.7 of the Law on the Legal Status of Foreigners, an asylum seeker's detention must be as short as possible and this requirement is observed in practice. Detention should not be longer than it is necessary on the basis of the grounds that were used for the asylum seeker's detention. Article 113.4 of the Law on the Legal Status of Foreigners specifies the following grounds for the detention of an asylum seeker:</p> <p>1) to determine and/or verify the asylum seeker's identity and/or nationality;</p> <p>2) to obtain information about claims in the asylum application (if it cannot be obtained without detention) and/or if there are reasons to believe that the foreigner may abscond to avoid return to a foreign state or expulsion from the Republic of Lithuania;</p>


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			<p>3) when a foreigner, pending a decision on his return to a foreign state, lodges an application for asylum and there are serious grounds for believing that the application has been lodged merely in order to delay or frustrate the enforcement of the return decision and the foreigner has already had access to the asylum procedure;</p> <p>4) pursuant to Article 28 of Regulation (EU) No 604/2013;</p> <p>5) the asylum applicant represents a threat to national security or public policy.</p> <p>3. The maximum 6 months period of detention may be extended by up to 12 months and, thus, the total period of detention may not exceed 18 months. No further extensions or renewals of extensions are possible.</p>
	EMN NCP Luxembourg	Yes	<p>1. Article 22 (4) of the amended law of 18 December 2015 on international protection and temporary protection (Asylum Law) provides that the decision to detain shall state the factual and legal grounds on which it is based. It shall be issued for the shortest possible period not exceeding three months. It also indicates that the detention measure may be extended by the Minister each time for a period of three months, but the total period of detention shall not exceed twelve months.</p> <p>2. YES. For the extension of the period of detention, the reasons for which the detention was ordered must continue to exist.</p> <p>Those reasons are the following:</p> <p>An applicant may be detained only:</p> <p>(a) in order to establish or verify their identity or nationality;</p> <p>(b) in order to determine those elements on which the application for international protection is based which could not be obtained without detention, in particular when there is a risk of absconding of the applicant;</p> <p>(c) when the protection of national security or public order so requires;</p> <p>(d) in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and when there is a risk of absconding based on a set of circumstances establishing that the applicant intends to evade the authorities for the sole purpose of obstructing a removal</p>

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			<p>order;</p> <p>(e) when the applicant is detained in the context of a return procedure pursuant to article 120 of the amended law of 29 August 2008 on the free movement of persons and Immigration for the purpose of preparing the return and carrying out the removal and when there are reasonable grounds to believe that the applicant has made the application for international protection for the sole purpose of delaying or preventing the enforcement of the return decision.</p> <p>3. The maximum duration of the extension is 12 months.</p>
	EMN NCP Netherlands	Yes	<p>1. Article 8 (3) (a), (b) and (d), Directive 2013/33/EU: in ordinary procedures (where an applicant for international protection is already on the territory of the Netherlands) the applicant can be detained for six weeks on the grounds of article 59b (1) (a), (b) and (c) of the Dutch Aliens Act (Vreemdelingenwet 2000) in the following cases:</p> <ul style="list-style-type: none"> <li>- To establish the identity or nationality of the third-country national.</li> <li>- If detention is considered necessary to obtain information for the processing of the application, in particularly if there is a risk of withdrawal.</li> <li>- If the applicant already completed the asylum procedure and received a return decision, and there are reasonable grounds for assuming that he/she submitted the applications merely to postpone or frustrate the process of return.[1]</li> </ul> <p>Article 8 (3) (e) Directive 2013/33/EU: in the case that the applicant is considered a danger to national security or public order the applicant can be detained on the grounds of article 59b (1) (d) of the Dutch Aliens act. Detention can last for six months on the grounds of article 59b (1) (4) of the Dutch Aliens Act.[2]</p> <p>Detention can only be applied in the above cases if less coercive measures are not sufficient.[3]</p> <p>Article 8 (3) (c) Directive 2013/33/EU: when a third country national has not yet crossed the border into the Schengen area and an application for international protection is lodged, the applicant may be detained on the grounds of article 3 and article 6 (3) of the Dutch Aliens act to determine if access to the territory is granted on grounds of international protection. Detention is only possible if the application can be decided upon within four weeks and the application is deemed to be manifestly unfounded, inadmissible or the application cannot be</p>


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		<p>taken into consideration because of applicability of Regulation 604/2013 (this determination can be made after the interview on the substance of the application). [4]</p> <p>Article 8 (3) (f) Directive 2013/33/EU: in the case of applicability of Regulation 604/2013 and on the condition of the existence of a significant risk of absconding, an applicant for international protection can be detained on the grounds of article 59a of the Dutch Aliens act in accordance with the conditions of article 28 of directive 604/2013. For the period of detention allowed Article 59a of the Dutch Aliens act refers to article 28 of Regulation 604/2013.[5]</p> <p>[1] Article59b of the Aliens Act (Vw) 2000.  [2] Idem.  [3] Article59c, of the Aliens Act (Vw) 2000.  [4] Article 3 of the Aliens Act (Vw) 2000, Article 6 of the Aliens Act (Vw) 2000.  [5] Article59a of the Aliens Act (Vw) 2000.</p> <p>2.  YES, depending on the specific grounds for detention:  Article 8 (3) (a) of Directive 2013/33/EU: detention on the grounds of article 59b (1) (a) of the Dutch Aliens act can be extended by three months on the grounds of article 59b (3) of the Dutch Aliens act, but only if this ground for detention is still present and on the condition that the applicant has got lawful residence on the grounds of a pending legal remedy (either the period a legal remedy can be requested after the decision has been given, or, if a legal remedy has been requested, the period up until the decision of the court).[1]  Article 8 (3) (b) of Directive 2013/33/EU: detention on the grounds of article 59b (1) (b) cannot be extended. After a decision has been given on the application for international protection this ground for detention is no longer present.[2]  Article 8 (3) (c) of Directive 2013/33/EU: detention on the grounds of article 6 (3) of the Dutch Aliens act cannot be extended after a decision on the application for international protection has been taken within the four week period. However, detention can continue on the grounds of article 6 (3) of the Dutch Aliens act pending an appeal. After a negative decision by the court the third country national is no longer considered an applicant for</p>
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			<p>international protection, access to the Schengen area will be denied and detention can be prolonged by applying article 6 (1) (2) and (6) of the Dutch aliens act (conforming to the rules of Directive 2008/115/EG).[3]</p> <p>Article 8 (3) (d) of Directive 2013/33/EU: detention on the grounds of article 59b (1) (c) of the Dutch Aliens act can be extended by three months on the grounds of article 59b (3) of the Dutch Aliens act, but only if this ground for detention is still present and on the condition that the applicant has got lawful residence on the grounds of a pending legal remedy (either the period a legal remedy can be requested after the decision has been given, or, if a legal remedy has been requested, the period up until the decision of the court).[4]</p> <p>Article 8 (3) (e) of Directive 2013/33/EU: detention on the grounds of article 59b (1) (d) of the Dutch Aliens act can be extended by nine months but only under the conditions that (both conditions must be met):</p> <ul style="list-style-type: none"> <li>- there are complex facts and circumstances surrounding the application for international protection; and</li> <li>- there are significant interests in extending the detention with a view to public order or national security.[5]</li> </ul> <p>Article 8 (3) (f) of Directive 2013/33/EU: detention on the grounds of article 59a of the Dutch Aliens act cannot be extended.[6]</p> <p>[1] Article 59b of the Aliens Act (Vw) 2000.  [2] Idem.  [3] Article 6 of the Aliens Act (Vw) 2000.  [4] Article 59b of the Aliens Act (Vw) 2000.  [5] Idem.  [6] Article 59a of the Aliens Act (Vw) 2000.</p> <p>3. See answer Q.2</p>
	EMN NCP Poland	Yes	<p>1. The applicant for international protection (the asylum-seeker) may be detained for a period up to 60 days:</p> <ul style="list-style-type: none"> <li>• in order to determine or verify his/her identity;</li> <li>• in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding</li> </ul>


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			<p>of the applicant (asylum-seeker);</p> <ul style="list-style-type: none"> <li>• in order to issue or enforce a return decision if there is an ongoing return proceeding or a return decision has already been issued, the applicant had a possibility to make an application for international protection and there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;</li> <li>• when the matters of defence, state safety or public safety and order so require;</li> <li>• in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person – when there is a high probability of absconding and the immediate transfer to other member state is not possible.</li> </ul> <p>If the third country national makes an application for international protection when being detained for the return purposes, his/her detention may be extended up to 90 days starting from the date of application if at least on of the above-mentioned grounds is applicable.</p> <p>2. The period of a detention of an applicant for international protection (up to 60 days or up to 90 days) may be extended if the asylum proceeding has not been concluded with a final decision and at least one of the grounds of the detention is still applicable. The period of the detention is not extended if the delay cannot be attributed to the applicant.</p> <p>3. The maximum (extended) period of the detention of the applicant for international protection (the asylum-seeker) is up to 6 months.</p>
	EMN NCP Portugal	Yes	<p>1. Placement in a temporary accommodation centre or similar space may not exceed 60 days.</p> <p>2. No</p>



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	EMN NCP Slovakia	Yes	<p>1. Detention of applicants for international protection is regulated by the Act on Residence of Foreigners Article 88a.</p> <p>A police officer is entitled to detain an applicant for international protection if the purpose of detention cannot be achieved by any less severe means:</p> <ul style="list-style-type: none"> <li>a) in order to check or verify his/her identity or nationality;</li> <li>b) in order to ascertain the facts that constitute the basis of his/her application for granting asylum, which could not be obtained without detention, especially if there is a risk of absconding;</li> <li>c) in the case of a third-country national detained in the administrative expulsion proceeding for the purpose of administrative expulsion who applied for international protection if there is reasonable suspicion that he/she applied for international protection in order to delay or frustrate his/her administrative expulsion;</li> <li>d) if it is necessary due to a threat to national security or public order; or</li> <li>e) for the reason of Dublin removal.</li> </ul> <p>An applicant for international protection may be detained for the time strictly necessary as long as the reasons referred to in paragraph above exist. The total time of detention of an applicant for international protection under paragraphs 1 (a), 1 (b), 1 (c) or 1 (e) shall not exceed six months.</p> <p>2. Yes.</p> <p>In the case of the detention of an applicant for international protection according to paragraph in question 1 letter d) it is possible to detain the third country national for the time that is absolutely necessary, for a maximum period of six months. The police department is entitled to repeatedly extend the detention of a third-country national during this period, while the total time of detention may not exceed six months. If it can be assumed that, despite the performed actions necessary for the execution of the administrative expulsion or the punishment of expulsion of a third country national, this execution will be extended due to the fact that the third country national does not cooperate sufficiently, or because the relevant embassy did not issue him/her an emergency travel document within the necessary period, the police department may decide, even repeatedly, to extend the period of detention, while the total period of extension of the period of detention may not exceed 12 months. The detention period cannot be extended if it is a family with children or a vulnerable person. A third country national is detained on the date of issuing the decision on detention.</p>
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			3. See response to question 2.
	EMN NCP Slovenia	Yes	<p>1. According to the Slovenian International Protection Act, an applicant's movement may be restricted to the Centre for Foreigners in specific cases, determined in this Act. This measure may continue until the grounds for such cease, but no longer than three months, except in the cases related to Regulation 604/2013/EU. The measure shall terminate ex officio if the underlying grounds cease to exist.</p> <p>2. YES.</p> <p>3. If the reasons for the restriction of movement still exist, the measure may be extended for another month. The measure shall terminate ex officio if the underlying grounds cease to exist.</p>
	EMN NCP Spain	Yes	<p>1. Spain has not fully transposed Article 8 of Directive 2013/33/EU.</p> <p>There are only two situations in which applicants for international protection are held:</p> <ul style="list-style-type: none"> <li>— One is the processing of a border procedure, as they have not yet entered Spanish territory. It would coincide with the case provided for in Article 8(3)(c) of Directive 2013/33/EU ('c) for deciding, in the context of a procedure, on the applicant's right to enter the territory;'). The border retention period (usually airports) is not more than eight days in accordance with Article 21 of Law 12/2009 of 30 October 2009 regulating the right to asylum and subsidiary protection.</li> <li>— Another is the filing of an application for international protection when the foreigner is already detained in a detention centre for foreigners as a precautionary measure to ensure their expulsion from Spanish territory under the sanctioning procedure provided for in Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration. The maximum period of stay in these centers is 60 days, according to Article 62.2 of the aforementioned Organic Law. However, applications for international protection lodged by inmates at an ICD are processed under the border procedure and are resolved within the time limits mentioned in the previous paragraph (Article 25(2) of Law 12/2009 of 30 October 2009).</li> </ul> <p>Applications for international protection may also be filed by prisoners, usually to avoid being expelled to their</p>



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			<p>release or to prevent extradition. The duration of the deprivation of liberty is the one that fixes the corresponding criminal sentence. These applications are processed under the ordinary procedure, although they are usually prioritised.</p> <p>2. If the applicant lodges an appeal for restitution or contests the refusal before the administrative court and requests the precautionary suspension of the effectiveness of that decision, the retention period would be extended until the decision of the appeal or the application for interim suspension, respectively (Article 22 of Law 12/2009 of 30 October 2009).</p> <p>3. See previous answer.</p>
	EMN NCP Sweden	Yes	<p>1. The normal period/limit for detention is two weeks.</p> <p>2. Yes. The limit for detention can be extended for longer than two weeks if there are exceptional grounds. This assessment is based on the asylum seeker's personal situation (such as serious reason to assume that the person might go into hiding or pursue criminal activities, or the probability of being able to enforce a return decision).</p> <p>3. As long as an asylum application is being processed, there is no maximum duration of the extension. A new examination, and a new decision regarding the detention is however required every two weeks during this period (and the decisions can be appealed).</p>

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